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**Attorney of Record:**  
**Tracey S. Bernstein, Esq. (TB-0405)**

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF NEW YORK**

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**RAYMOND VAN COTT,**

Plaintiff,

-against-

**MELLON FINANCIAL CORPORATION,**

2007 Civ. 5578 (MKC)(RLE)

ECF FILED

Defendant.

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**PLAINTIFF'S REPLY MEMORANDUM OF LAW IN SUPPORT OF CROSS-MOTION  
TO AMEND THE COMPLAINT TO JOIN A PARTY**

**HIMMEL & BERNSTEIN, LLP**  
**Attorneys for Plaintiff**  
**928 Broadway, Suite 1000**  
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**DEFENDANT DOES NOT OBJECT TO THE PLAN BEING ADDED AS A PARTY**

In its opposition to plaintiff's cross-motion, defendant raises no objection to the Mellon Financial Corporation Displacement Program (the "Plan") being added as a party to this matter. Therefore if the court denies plaintiff's remand motion, plaintiff's cross-motion to join the Plan as a party pursuant to FRCP 15 and 19 should be granted.

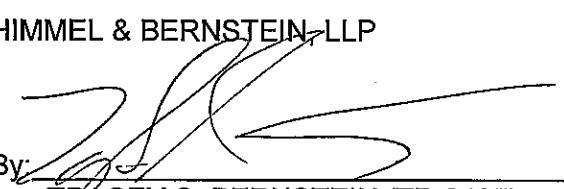
**CONCLUSION**

Wherefore, defendant's motion should be denied in its entirety and, to the extent the court believes the Plan to be an indispensable party, plaintiff's motion to amend and add the Plan as a party, pursuant to FRCP 15 and 19, should be granted and plaintiff should be given 60 days from the date of entry of this Court's order to file and serve the amended complaint.

Dated: New York, New York  
September 24, 2007

HIMMEL & BERNSTEIN, LLP

By:

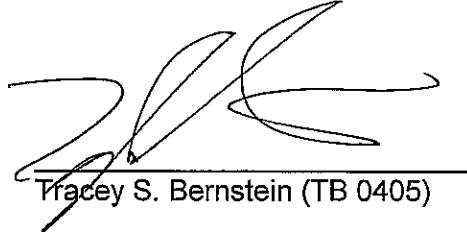
  
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**CERTIFICATE OF SERVICE**

I, Tracey S. Bernstein, hereby certify that on September 24, 2007, I caused the annexed PLAINTIFF'S REPLY MEMORANDUM OF LAW IN IN SUPPORT OF CROSS-MOTION TO AMEND and to JOIN A PARTY to be served upon defendant's counsel listed below by filing it with the Court by means of the Court's Electronic Case Filing System pursuant to Fed. R. Civ. P. 5 and Local Rule 5.2.

Paul P. Rooney  
Reed Smith LLP  
599 Lexington Avenue  
New York, NY 10022

Dated: New York, New York  
September 24, 2007



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Tracey S. Bernstein (TB 0405)